

### **REMARKS**

The applicant respectfully requests reconsideration in view of the amendments and the following remarks. Support for newly amended claim 1 can be found in claims 2 and 4.

Claims 1-4, 6 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Toshiaki et al. European Publication No. 920808 ("Toshiaki"). Claims 1-6 and 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshiaki et al. and Sears et al. U.S. Publication No. 2002/0000683 ("Sears"). The applicant respectfully traverses these rejections.

### **35 U.S.C. 102 Rejection**

Claims 1-4, 6 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Toshiaki. Toshiaki, is cited at page 3, line 6 through page 4 line 6 of the specification. The applicant's claimed invention is directed to multi-layered seamless tubular casings. The one-layered seamless tubular casings are no longer being claimed by the applicant. The Examiner recognized that Toshiaki only teaches a single layer and not a multilayer casing. For this reason alone, this rejection should be withdrawn.

Furthermore, Toshiaki does not disclose a multi-layer casing which is biaxially stretched, which is now claimed (see claim 1). For the above reasons, this rejection should be withdrawn.

### **35 U.S.C. 103 Rejection**

Claims 1-6 and 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toshiaki and Sears. As stated above, Toshiaki does not disclose the applicant's claimed multi-layer casing let alone a multi-layer casing which is biaxially stretched. Furthermore, the

Examiner stated at page 5, paragraph no. 9 of the Office Action, that Toshiaki is silent about the length of the cellulose fibers within the cellulose powder.

Sears discloses improved composite materials containing cellulosic pulp fibers dispersed in a matrix wherein the matrix comprises a polymeric material, e.g., polyamide (see paragraph nos. 2 and 24 of Sears). Sears further discloses that the composite may comprise greater than 1% and less than 60 by weight cellulosic pulp fibers (see paragraph no. 16 of Sears). The composite materials containing the cellulosic pulp fibers can be used for extrusion methods, e.g., in injection molding applications (see paragraph no. 26 of Sears). Sears relates to a totally different technical field compared to the present application. The disclosure of Sears is totally silent about food casings and is also totally silent about multi-layered food casings. In addition, Sears has nothing to do with biaxially stretched seamless tube casings, but instead is directed to fiber-reinforced plastic material which is intended to be used in injection molding applications. The applicant does not believe that one of ordinary skill in the food casing art would consider Sears as an applicable reference.

The combination the Examiner is proposing and the arguments of the Examiner with respect to Toshiaki in combination with Sears is contradictory to what would actually occur. Sears just teaches to use a mixture of polyamide and cellulose acetate propionate and this in combination with Toshiaki would lead to a cellulosic material which is comprised within a casing and then **should improve the smoke properties of the casing**. However, this does not occur. On the contrary, a person skilled in the art would be prevented from using the teaching of Sears to merely mix cellulosic material and polyamide, since pure polyamide casings are not appropriate according to Toshiaki if smoke properties are an issue (see paragraph no. 0003 of

Toshiaki). Therefore, there is no hint in Toshiaki to use the cellulose acetate propionate.

However, the inventors of the present application have found that biaxially stretched casings having good smoke properties can be provided without using cellulose acetate propionate, only be using a mixture of polyamide and natural fibers, as claimed in claim 1 of the application.

Therefore, the subject matter of the present application is non-obviousness even in the light of Toshiaki and Sears. For the above reasons, this rejection should be withdrawn.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 15551-00003-US from which the undersigned is authorized to draw.

Respectfully submitted,

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